

THE HON'BLE SRI JUSTICE A. RAJASHEKHER REDDY

WRIT PETITION No.8472 of 2012

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Between:

Bossuluri Mangamma

PETITIONER

AND

1. The Deputy Commissioner of Endowments, Guntur, Guntur District, and another.

RESPONDENTS

ORDER:

The writ petition is filed challenging the action of the 1st respondent-Deputy Commissioner of Endowments, Guntur, in not permitting the petitioner to exercise her rights as a member of the founder's family in pursuance of the order dated 09.03.2010 passed by the IV Additional District Judge, Guntur, in A.S.No.335 of 2009 and the succession given by the Assistant Commissioner of Endowments, Guntur vide proceedings D.Dis.No.A1/4441/C7, dated 13.04.1977, as illegal and arbitrary.

The 2nd respondent temple is an institution classified under Section 6(c) of the Endowments Act (Act 17/1966), wherein the 1st respondent is the jurisdictional authority to constitute the Board of trustees. The petitioner hails from the family of hereditary trustee. Originally the petitioner's father Sri Pamulapati Venkaiah constructed the subject temple in the year 1944-1945 with his own personal funds and endowed an extent of Ac.16.00 in favour the temple for performance of regular rituals of dhoopa deepa naavidyam and other periodical festivals celebrated to the deity. However, during the course of time, the 2nd respondent temple attained a public character and was brought under the jurisdiction of the endowments department under Act 17/1966.

The institution, originally, was under the jurisdiction of the Assistant Commissioner of Endowments, Guntur, but by virtue of the amendments under Act 33/2007, the subject institution came under the jurisdiction of the 1st respondent. The petitioner's father was recognised as hereditary trustee under the old Act and consequent upon the demise of the petitioner's father the petitioner herein was recognised as hereditary trustee under Section 20(1) of the

Endowments Act, vide proceedings dated 13.04.1977. After the amendment effected under Act 33 of 2007 r/w Section 30 of 1987 the erstwhile hereditary trustees were given the right to continue in the management.

After Act 30/1987, the petitioner made an application on 10.11.1998 to the Assistant Commissioner of Endowments, Guntur, to recognise her as a member of founder family. The Assistant Commissioner of Endowments, Guntur issued proceedings dated 13.03.2001 appointing one Sri G. Venkateswarlu, Executive Officer, as single trustee of the subject temple mentioning that the petitioner is the founder trustee of the temple. The Assistant Commissioner issued notification dated 30.01.2006 inviting applications from eligible persons for being appointed as members of the trust board to the subject temple. The petitioner made a representation dated 4.02.2006 stating that she being a member of founder's family, she is entitled to be appointed as the Chairman of the trust board. When the Assistant Commissioner of Endowments was taking steps to appoint other persons as members of trust board, the petitioner filed W.P.No.8253 of 2006 before this Court. This Court by order dated 24.04.2006, disposed of the same directing the Assistant Commissioner of Endowments, Guntur, to forebear from appointing trustees to Sri Sitarama Swamy Temple, Gundlapalem, Medikonduru Mandal, Guntur, till the petitioner's representation dated 10.11.1998 is disposed of. Thereafter vide proceedings dated 25.08.2006 the petitioner's claim was rejected under Section 28(1) of the Act 30/1987 violating the orders passed by this Court and by order dated 31.08.2006, the trust board of the temple was constituted.

Aggrieved by the same, the petitioner filed C.C.No.1020 of 2006. Thereafter the proceedings dated 31.08.2006 were withdrawn by the 1st respondent through proceedings dated 28.10.2006. The petitioner filed W.P. No.19260 of 2006, and the same was disposed of by order dated 14.02.2008 directing the petitioner to make appropriate

application before the 1st respondent and the 1st respondent shall decide the same in accordance with law. The petitioner filed O.A.No.98 of 2008 before the 1st respondent seeking a declaration that she is a member of the founder family of the 2nd respondent temple under Section 87 (1) (h) of the Act. By order dated 20.07.2009, the 1st respondent rejected the claim of the petitioner. The said order in O.A. was assailed before the learned IV Additional District Judge in A.S.No.335 of 2009 and the learned Judge, being the appellate authority, allowed the appeal by order dated 9.03.2010 by declaring that the petitioner is the member of the founder's family of the 2nd respondent temple. The petitioner filed a representation to implement the orders in A.S.No.335 of 2009. As there was no response, she filed W.P.No.7444 of 2011 and the same was disposed of on 22.03.2011 directing the 1st respondent to consider the petitioner's representation and take appropriate decision for appointing the petitioner as trustee while constituting the next trust board and communicate the same to the petitioner. As the said orders were not implemented, she filed C.C.No.38 of 2012, and thereafter, the 1st respondent passed orders dated 6.03.2012 constituting the trust board. Thereafter, the petitioner was nominated as a Chairman of the Board of Trustees vide proceedings dated 06.03.2012.

Aggrieved by the nomination of the petitioner, some third parties filed W.P.No.8201 of 2012 alleging certain irregularities in constitution of the Board of Trustees and this Court passed an interim order suspending the order dated 6.03.2012. By virtue of the said interim order, the petitioner was prevented from functioning as founder family member. Hence, the present writ petition is filed.

A counter affidavit is filed by the 2nd respondent admitting filing of the O.A and allowing of A.S.No.335 of 2009 wherein the petitioner's claimed for declaration as a member of the founder family of the 2nd respondent temple. It is stated in the counter that pending the orders in

the writ petition, the 2nd respondent filed C.R.P.No.787 of 2012 disputing the claim of the petitioner and the said C.R.P. is still pending. It is also admitted in the counter affidavit that the Assistant Commissioner of Endowments, Guntur vide order dated 13.04.1977 permitted the petitioner to assume the office of hereditary trusteeship of the said temple under Section 20(1) of Act 17/1966. However, it is stated that the said hereditary rights were abolished as per the provisions of Endowments Act 30/1987 and hence the petitioner cannot claim any rights through the said orders and she has to produce evidence to comply with the ingredients under Section 17(1) of Act 30/1987 to the effect that the said temple was constructed by her ancestors in their own land and with their own funds without collecting any donations from the public and she is agnatic line of succession.

Heard learned counsel for the petitioner, learned Government Pleader for Endowments for the 1st respondent and Sri D. Ramesh, learned Standing Counsel for the 2nd respondent.

Admittedly, in the C.R.P. filed against the orders in AS.No.335 of 2009 declaring the petitioner as founder family of the 2nd respondent, no stay was granted, however, a direction was given to the effect that any action taken by the respondents will be subject to further orders in C.R.P.No.787 of 2012. In view of the same, this writ petition needs to be allowed.

Accordingly, the petitioner shall be permitted to exercise her rights as a member of the founder's family of the 2nd respondent temple in view of the judgment in A.S.No.335 of 2009. However the same is subject to further orders in C.R.P.No.787 of 2012. No order as to costs. As a sequel, miscellaneous petitions if any shall stand closed.

A. RAJASHEKHER REDDY, J.

12th March, 2015
Js.